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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1849

Introduced by Assembly Member Leslie
(Coauthors: Assembly Members Benoit, Cogdill, Cohn, Daucher,
DeVore, Emmerson, Garcia, Harman, Haynes, Shirley Horton,
Houston, Huff, Leno, Maze, Mountjoy, Parra, Strickland, Tran,
Vargas, and Wyland)
(Coauthors: Senators Alquist and Cox)

January 12, 2006

An act to amend ~~Section 290.46~~ of *Sections 290.46, 1202.8, and 3004 of*, and to repeal *Sections 290.04, 290.05, and 290.06 of*, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1849, as amended, Leslie. Sex offenders.

Existing law requires the Department of Justice to make information concerning certain persons who are required to register as sex offenders available to the public via an Internet Web site, including the offender's criminal history.

This bill would also require that on or before July 1, 2010, the year of the conviction of the offender's last sexual offense, the year of release from incarceration for that offense, and whether he or she was subsequently incarcerated for any other felony, be posted on the Internet Web site, as specified. This bill would also require any state facility that releases a sex offender to provide the year of conviction and year of release for his or her most recent offense requiring registration as a sex offender to the department, or that releases a person who is required to register as a sex offender from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register to advise the department, as specified, ~~if that information is readily accessible to the facility.~~

Senate Bill No. 1178 proposes to enact provisions requiring certain offenders to be assessed with the State Authorized Risk Assessment Tool for Sex Offenders for purposes of parole and probation.

This bill would further revise those provisions to, among other things, make certain requirements applicable commencing January 1, 2009, to become operative only if SB 1178 is also enacted and this bill is enacted last.

This bill would incorporate additional changes in Section 290.46 of the Penal Code proposed by AB 2712 and SB 1128 contingent upon the prior enactment of one or both of those bills.

This bill would provide that it shall only become operative if SB 1128 is enacted.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 290.04 of the Penal Code, as added by
- 2 Senate Bill No. 1178, is repealed.
- 3 290.04. (a) (1) ~~The sex offender risk assessment tools~~
- 4 ~~authorized by this section for use with selected populations shall~~

1 ~~be known, with respect to each population, as the~~
2 ~~State-Authorized Risk Assessment Tool for Sex Offenders~~
3 ~~(SARATSO). If a SARATSO has not been selected for a given~~
4 ~~population pursuant to this section, no duty to administer the~~
5 ~~SARATSO elsewhere in this code shall apply with respect to that~~
6 ~~population. Every person required to register as a sex offender~~
7 ~~shall be subject to assessment with the SARATSO as set forth in~~
8 ~~this section and elsewhere in this code.~~

9 ~~(2) A representative of the Department of Corrections and~~
10 ~~Rehabilitation, in consultation with a representative of the~~
11 ~~Department of Mental Health and a representative of the~~
12 ~~Attorney General's office, shall comprise the SARATSO Review~~
13 ~~Committee. The purpose of the committee shall be to ensure that~~
14 ~~the SARATSO reflects the most reliable, objective and~~
15 ~~well-established protocols for predicting sex offender risk of~~
16 ~~recidivism, has been scientifically validated with multiple~~
17 ~~cross-validations, and is widely accepted by the courts. The~~
18 ~~committee shall consult with experts in the fields of risk~~
19 ~~assessment and the use of actuarial instruments in predicting sex~~
20 ~~offender risk, sex offending, sex offender treatment, mental~~
21 ~~health, and law, as it deems appropriate.~~

22 ~~(b) (1) Commencing January 1, 2007, the SARATSO for~~
23 ~~adult males required to register as sex offenders shall be the~~
24 ~~STATIC-99 risk assessment scale.~~

25 ~~(2) On or before January 1, 2008, the SARATSO Review~~
26 ~~Committee shall determine whether the STATIC-99 should be~~
27 ~~supplemented with an actuarial instrument that measures~~
28 ~~dynamic risk factors or whether the STATIC-99 should be~~
29 ~~replaced as the SARATSO with a different risk assessment tool.~~
30 ~~If the committee unanimously agrees on changes to be made to~~
31 ~~the SARATSO, it shall advise the Governor and the Legislature~~
32 ~~of the changes, and it shall post its decision on the Department of~~
33 ~~Corrections and Rehabilitation's Internet Web site. Sixty days~~
34 ~~after the decision is posted, the selected tool shall become the~~
35 ~~SARATSO for adult males.~~

36 ~~(c) On or before July 1, 2007, the SARATSO Review~~
37 ~~Committee shall research risk assessment tools for females~~
38 ~~required to register as sex offenders. If the committee~~
39 ~~unanimously agrees on an appropriate risk assessment tool to be~~
40 ~~used to assess this population, it shall advise the Governor and~~

1 the Legislature of the selected tool, and it shall post its decision
2 on the Department of Corrections and Rehabilitation's Internet
3 Web site. Sixty days after the decision is posted, the selected tool
4 shall become the SARATSO for females.

5 (d) On or before January 1, 2007, the SARATSO Review
6 Committee shall research risk assessment tools for juveniles
7 required to register as sex offenders. If the committee
8 unanimously agrees on an appropriate risk assessment tool to be
9 used to assess this population, it shall advise the Governor and
10 the Legislature of the selected tool, and it shall post its decision
11 on the Department of Corrections and Rehabilitation's Internet
12 Web site. Sixty days after the decision is posted, the selected tool
13 shall become the SARATSO for juveniles.

14 (e) The committee shall periodically evaluate the SARATSO
15 for each specified population. If the committee unanimously
16 agrees on a change to the SARATSO for any population, it shall
17 advise the Governor and the Legislature of the selected tool, and
18 it shall post its decision on the Department of Corrections and
19 Rehabilitation's Internet Web site. Sixty days after the decision is
20 posted, the selected tool shall become the SARATSO for that
21 population.

22 (f) The committee shall perform other functions as necessary
23 to carry out the provisions of this act or as may be otherwise
24 required by law. The committee shall be immune from liability
25 for good faith conduct under this act.

26 *SEC. 2. Section 290.05 of the Penal Code, as added by Senate*
27 *Bill No. 1178, is repealed.*

28 290.05. (a) On or before January 1, 2008, the SARATSO
29 Review Committee established pursuant to Section 290.04, in
30 consultation with probation officers and parole officers, shall
31 develop a training program for probation officers, parole officers,
32 local law enforcement personnel, and any other persons
33 authorized by this code to administer the SARATSO, as set forth
34 in Section 290.04. The Department of Corrections and
35 Rehabilitation shall be responsible for overseeing the training,
36 which shall be conducted by experts in the field of risk
37 assessment and the use of actuarial instruments in predicting sex
38 offender risk. Subject to requirements promulgated by the
39 committee, probation departments, regional parole officers, and
40 local law enforcement agencies shall designate key persons

1 within their organizations to attend training and, as authorized by
2 the department, to train others within their organizations
3 designated to perform risk assessments as required or authorized
4 by law. Any person who administers the SARATSO shall receive
5 training no less frequently than every two years.

6 (b) ~~The SARATSO may be performed for purposes authorized~~
7 ~~by statute only by persons trained pursuant to this section.~~

8 *SEC. 3. Section 290.06 of the Penal Code, as added by Senate*
9 *Bill No. 1178, is repealed.*

10 290.06. ~~Effective on or before July 1, 2008, the SARATSO,~~
11 ~~as set forth in Section 290.04, shall be administered as follows:~~

12 (a) ~~(1) The Department of Corrections and Rehabilitation~~
13 ~~shall assess every eligible person who is incarcerated in state~~
14 ~~prison. The assessment shall take place at least four months, but~~
15 ~~no sooner than 10 months, prior to release from incarceration.~~

16 ~~(2) The department shall assess every eligible person who is~~
17 ~~on parole. The assessment shall take place at least four months,~~
18 ~~but no sooner than 10 months, prior to termination of parole.~~

19 ~~(3) The Department of Mental Health shall assess every~~
20 ~~eligible person who is committed to that department. The~~
21 ~~assessment shall take place at least four months, but no sooner~~
22 ~~than 10 months, prior to release from commitment.~~

23 ~~(4) Each probation department shall assess every eligible~~
24 ~~person for whom it prepares a report pursuant to Section 1203.~~

25 ~~(5) Each probation department shall assess every eligible~~
26 ~~person under its supervision who was not assessed pursuant to~~
27 ~~paragraph (4). The assessment shall take place prior to the~~
28 ~~termination of probation, but no later than January 1, 2010.~~

29 (b) ~~If a person required to be assessed pursuant to subdivision~~
30 ~~(a) was assessed pursuant to that subdivision within the previous~~
31 ~~five years, a reassessment is permissible but not required.~~

32 (c) ~~The SARATSO Review Committee established pursuant to~~
33 ~~Section 290.04, in consultation with probation officers and local~~
34 ~~law enforcement agencies, shall establish a plan and a schedule~~
35 ~~for assessing eligible persons not assessed pursuant to~~
36 ~~subdivision (a). The plan shall provide for adult males to be~~
37 ~~assessed on or before January 1, 2012, and for females and~~
38 ~~juveniles to be assessed on or before January 1, 2013, and it shall~~
39 ~~give priority to assessing those persons most recently convicted~~
40 ~~of an offense requiring registration as a sex offender. On or~~

1 before January 15, 2008, the committee shall introduce
2 legislation to implement the plan.

3 (d) On or before January 1, 2008, the SARATSO Review
4 Committee shall research the appropriateness and feasibility of
5 providing a means by which an eligible person subject to
6 assessment may, at his or her own expense, be assessed with the
7 SARATSO by a governmental entity prior to his or her scheduled
8 assessment. If the committee unanimously agrees that such a
9 process is appropriate and feasible, it shall advise the Governor
10 and the Legislature of the selected tool, and it shall post its
11 decision on the Department of Corrections and Rehabilitation's
12 Internet Web site. Sixty days after the decision is posted, the
13 established process shall become effective.

14 (e) For purposes of this section, "eligible person" means a
15 person who was convicted of an offense that requires him or her
16 to register as a sex offender pursuant to Section 290 and who has
17 not been assessed with the SARATSO within the previous five
18 years.

19 **SECTION 1.**

20 *SEC. 4.* Section 290.46 of the Penal Code is amended to read:

21 290.46. (a) (1) On or before the dates specified in this
22 section, the Department of Justice shall make available
23 information concerning persons who are required to register
24 pursuant to Section 290 to the public via an Internet Web site as
25 specified in this section. The department shall update the Internet
26 Web site on an ongoing basis. All information identifying the
27 victim by name, birth date, address, or relationship to the
28 registrant shall be excluded from the Internet Web site. The name
29 or address of the person's employer and the listed person's
30 criminal history other than the specific crimes for which the
31 person is required to register shall not be included on the Internet
32 Web site. The Internet Web site shall be translated into languages
33 other than English as determined by the department.

34 (2) (A) On or before July 1, 2010, the Department of Justice
35 shall make available to the public, via an Internet Web site as
36 specified in this section, as to any person described in
37 subdivisions (b), (c), or (d), the following information:

38 (i) The year of conviction of his or her most recent offense
39 requiring registration pursuant to Section 290.

1 (ii) The year he or she was released from incarceration for that
2 offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense,
10 and the required notation regarding any subsequent felony.

11 (B) (i) Any state facility that releases from incarceration a
12 person who was incarcerated because of a crime for which he or
13 she is required to register as a sex offender pursuant to Section
14 290 shall, within 30 days of release, provide the ~~year of~~
15 ~~conviction and~~ year of release for his or her most recent offense
16 requiring registration to the Department of Justice in a manner
17 and format approved by the department, ~~if that information is~~
18 ~~readily accessible to the facility.~~

19 (ii) Any state facility that releases a person who is required to
20 register pursuant to Section 290 from incarceration whose
21 incarceration was for a felony committed subsequently to the
22 offense for which he or she is required to register shall, within 30
23 days of release, advise the Department of Justice of that fact, ~~if~~
24 ~~that information is readily accessible to the facility.~~

25 (iii) Any state facility that, prior to January 1, 2007, released
26 from incarceration a person who was incarcerated because of a
27 crime for which he or she is required to register as a sex offender
28 pursuant to Section 290 shall provide the ~~year of conviction and~~
29 year of release for his or her most recent offense requiring
30 registration to the Department of Justice in a manner and format
31 approved by the department, ~~if that information is readily~~
32 ~~accessible to the facility.~~ The information provided by the
33 Department of Corrections and Rehabilitation shall be limited to
34 information that is currently maintained in an electronic format.
35 ~~If the information is not currently maintained in an electronic~~
36 ~~format, there shall be a notation that the event occurred prior to~~
37 ~~1978.~~

38 (iv) Any state facility that, prior to January 1, 2007, released a
39 person who is required to register pursuant to Section 290 from
40 incarceration whose incarceration was for a felony committed

1 subsequently to the offense for which he or she is required to
2 register shall advise the Department of Justice of that fact in a
3 manner and format approved by the department, ~~if that~~
4 ~~information is readily accessible to the facility.~~ The information
5 provided by the Department of Corrections and Rehabilitation
6 shall be limited to information that is currently maintained in an
7 electronic format. ~~If the information is not currently maintained~~
8 ~~in an electronic format, there shall be a notation that the event~~
9 ~~occurred prior to 1978.~~ *electronic format.*

10 (b) (1) On or before July 1, 2005, with respect to a person
11 who has been convicted of the commission or the attempted
12 commission of any of the offenses listed in, or who is described
13 in, paragraph (2), the Department of Justice shall make available
14 to the public via the Internet Web site his or her name and known
15 aliases, a photograph, a physical description, including gender
16 and race, date of birth, criminal history, the address at which the
17 person resides, and any other information that the Department of
18 Justice deems relevant, but not the information excluded pursuant
19 to subdivision (a).

20 (2) This subdivision shall apply to the following offenses and
21 offenders:

22 (A) Section 207 committed with intent to violate Section 261,
23 286, 288, 288a, or 289.

24 (B) Section 209 committed with intent to violate Section 261,
25 286, 288, 288a, or 289.

26 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

27 (D) Section 264.1.

28 (E) Section 269.

29 (F) Subdivision (c) or (d) of Section 286.

30 (G) Subdivision (a), (b), or (c) of Section 288, provided that
31 the offense is a felony.

32 (H) Subdivision (c) or (d) of Section 288a.

33 (I) Section 288.5.

34 (J) Subdivision (a) or (j) of Section 289.

35 (K) Any person who has ever been adjudicated a sexually
36 violent predator as defined in Section 6600 of the Welfare and
37 Institutions Code.

38 (c) (1) On or before July 1, 2005, with respect to a person
39 who has been convicted of the commission or the attempted
40 commission of any of the offenses listed in paragraph (2), the

1 Department of Justice shall make available to the public via the
2 Internet Web site his or her name and known aliases, a
3 photograph, a physical description, including gender and race,
4 date of birth, criminal history, the community of residence and
5 ZIP Code in which the person resides or the county in which the
6 person is registered as a transient, and any other information that
7 the Department of Justice deems relevant, but not the information
8 excluded pursuant to subdivision (a). On or before July 1, 2006,
9 the Department of Justice shall determine whether any person
10 convicted of an offense listed in paragraph (2) also has one or
11 more prior or subsequent convictions of an offense listed in
12 paragraph (2) of subdivision (a) of Section 290, and, for those
13 persons, the Department of Justice shall make available to the
14 public via the Internet Web site the address at which the person
15 resides. However, the address at which the person resides shall
16 not be disclosed until a determination is made that the person is,
17 by virtue of his or her additional prior or subsequent conviction
18 of an offense listed in paragraph (2) of subdivision (a) of Section
19 290, subject to this subdivision.

20 (2) This subdivision shall apply to the following offenses:

21 (A) Section 220, except assault to commit mayhem.

22 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

23 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
24 (i), of Section 286.

25 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
26 (i), of Section 288a.

27 (E) Subdivision (b), (d), (e), or (i) of Section 289.

28 (d) (1) On or before July 1, 2005, with respect to a person
29 who has been convicted of the commission or the attempted
30 commission of any of the offenses listed in, or who is described
31 in, this subdivision, the Department of Justice shall make
32 available to the public via the Internet Web site his or her name
33 and known aliases, a photograph, a physical description,
34 including gender and race, date of birth, criminal history, the
35 community of residence and ZIP Code in which the person
36 resides or the county in which the person is registered as a
37 transient, and any other information that the Department of
38 Justice deems relevant, but not the information excluded pursuant
39 to subdivision (a) or the address at which the person resides.

1 (2) This subdivision shall apply to the following offenses and
2 offenders:

3 (A) Subdivision (a) of Section 243.4, provided that the offense
4 is a felony.

5 (B) Section 266, provided that the offense is a felony.

6 (C) Section 266c, provided that the offense is a felony.

7 (D) Section 266j.

8 (E) Section 267.

9 (F) Subdivision (c) of Section 288, provided that the offense is
10 a misdemeanor.

11 (G) Section 647.6.

12 (H) Any person required to register pursuant to Section 290
13 based upon an out-of-state conviction, unless that person is
14 excluded from the Internet Web site pursuant to subdivision (e).
15 However, if the Department of Justice has determined that the
16 out-of-state crime, if committed or attempted in this state, would
17 have been punishable in this state as a crime described in
18 subparagraph (A) of paragraph (2) of subdivision (a) of Section
19 290, the person shall be placed on the Internet Web site as
20 provided in subdivision (b) or (c), as applicable to the crime.

21 (e) (1) If a person has been convicted of the commission or
22 the attempted commission of any of the offenses listed in this
23 subdivision, and he or she has been convicted of no other offense
24 listed in subdivision (b), (c), or (d) other than those listed in this
25 subdivision, that person may file an application with the
26 Department of Justice, on a form approved by the department, for
27 exclusion from the Internet Web site. If the department
28 determines that the person meets the requirements of this
29 subdivision, the department shall grant the exclusion and no
30 information concerning the person shall be made available via
31 the Internet Web site described in this section. He or she bears
32 the burden of proving the facts that make him or her eligible for
33 exclusion from the Internet Web site. However, a person who has
34 filed for or been granted an exclusion from the Internet Web site
35 is not relieved of his or her duty to register as a sex offender
36 pursuant to Section 290 nor from any otherwise applicable
37 provision of law.

38 (2) This subdivision shall apply to the following offenses:

39 (A) A felony violation of subdivision (a) of Section 243.4.

40 (B) Section 647.6, provided the offense is a misdemeanor.

1 (C) (i) An offense for which the offender successfully
2 completed probation, provided that the offender submits to the
3 department a certified copy of a probation report, presentencing
4 report, report prepared pursuant to Section 288.1, or other official
5 court document that clearly demonstrates both of the following:

6 (I) The offender was the victim's parent, stepparent, sibling, or
7 grandparent.

8 (II) The crime did not involve either oral copulation or
9 penetration of the vagina or rectum of either the victim or the
10 offender by the penis of the other or by any foreign object.

11 (ii) An offense for which the offender is on probation at the
12 time of his or her application, provided that the offender submits
13 to the department a certified copy of a probation report,
14 presentencing report, report prepared pursuant to Section 288.1,
15 or other official court document that clearly demonstrates both of
16 the following:

17 (I) The offender was the victim's parent, stepparent, sibling, or
18 grandparent.

19 (II) The crime did not involve either oral copulation or
20 penetration of the vagina or rectum of either the victim or the
21 offender by the penis of the other or by any foreign object.

22 (iii) If, subsequent to his or her application, the offender
23 commits a violation of probation resulting in his or her
24 incarceration in county jail or state prison, his or her exclusion,
25 or application for exclusion, from the Internet Web site shall be
26 terminated.

27 (iv) For the purposes of this subparagraph, "successfully
28 completed probation" means that during the period of probation
29 the offender neither received additional county jail or state prison
30 time for a violation of probation nor was convicted of another
31 offense resulting in a sentence to county jail or state prison.

32 (f) The Department of Justice shall make a reasonable effort to
33 provide notification to persons who have been convicted of the
34 commission or attempted commission of an offense specified in
35 subdivision (b), (c), or (d), that on or before July 1, 2005, the
36 department is required to make information about specified sex
37 offenders available to the public via an Internet Web site as
38 specified in this section. The Department of Justice shall also
39 make a reasonable effort to provide notice that some offenders
40 are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this

1 section shall be punished by a fine not exceeding one thousand
2 dollars (\$1,000), imprisonment in a county jail for a period not to
3 exceed six months, or by both that fine and imprisonment.

4 (I) (1) A person is authorized to use information disclosed
5 pursuant to this section only to protect a person at risk.

6 (2) Except as authorized under paragraph (1) or any other
7 provision of law, use of any information that is disclosed
8 pursuant to this section for purposes relating to any of the
9 following is prohibited:

10 (A) Health insurance.

11 (B) Insurance.

12 (C) Loans.

13 (D) Credit.

14 (E) Employment.

15 (F) Education, scholarships, or fellowships.

16 (G) Housing or accommodations.

17 (H) Benefits, privileges, or services provided by any business
18 establishment.

19 (3) This section shall not affect authorized access to, or use of,
20 information pursuant to, among other provisions, Sections 11105
21 and 11105.3, Section 8808 of the Family Code, Sections 777.5
22 and 14409.2 of the Financial Code, Sections 1522.01 and
23 1596.871 of the Health and Safety Code, and Section 432.7 of
24 the Labor Code.

25 (4) (A) Any use of information disclosed pursuant to this
26 section for purposes other than those provided by paragraph (1)
27 or in violation of paragraph (2) shall make the user liable for the
28 actual damages, and any amount that may be determined by a
29 jury or a court sitting without a jury, not exceeding three times
30 the amount of actual damage, and not less than two hundred fifty
31 dollars (\$250), and attorney's fees, exemplary damages, or a civil
32 penalty not exceeding twenty-five thousand dollars (\$25,000).

33 (B) Whenever there is reasonable cause to believe that any
34 person or group of persons is engaged in a pattern or practice of
35 misuse of the information available via an Internet Web site
36 established pursuant to this section in violation of paragraph (2),
37 the Attorney General, any district attorney, or city attorney, or
38 any person aggrieved by the misuse is authorized to bring a civil
39 action in the appropriate court requesting preventive relief,
40 including an application for a permanent or temporary injunction,

1 restraining order, or other order against the person or group of
2 persons responsible for the pattern or practice of misuse. The
3 foregoing remedies shall be independent of any other remedies or
4 procedures that may be available to an aggrieved party under
5 other provisions of law, including Part 2 (commencing with
6 Section 43) of Division 1 of the Civil Code.

7 (m) The public notification provisions of this section are
8 applicable to every person described in this section, without
9 regard to when his or her crimes were committed or his or her
10 duty to register pursuant to Section 290 arose, and to every
11 offense described in this section, regardless of when it was
12 committed.

13 (n) On or before July 1, 2006, and every year thereafter, the
14 Department of Justice shall make a report to the Legislature
15 concerning the operation of this section.

16 (o) A designated law enforcement entity and its employees
17 shall be immune from liability for good faith conduct under this
18 section.

19 ~~SEC. 4.1.~~

20 *SEC. 4.1.* Section 290.46 of the Penal Code is amended to
21 read:

22 290.46. (a) (1) On or before the dates specified in this
23 section, the Department of Justice shall make available
24 information concerning persons who are required to register
25 pursuant to Section 290 to the public via an Internet Web site as
26 specified in this section. The department shall update the Internet
27 Web site on an ongoing basis. All information identifying the
28 victim by name, birth date, address, or relationship to the
29 registrant shall be excluded from the Internet Web site. The name
30 or address of the person's employer and the listed person's
31 criminal history other than the specific crimes for which the
32 person is required to register shall not be included on the Internet
33 Web site. The Internet Web site shall be translated into languages
34 other than English as determined by the department.

35 (2) (A) On or before July 1, 2010, the Department of Justice
36 shall make available to the public, via an Internet Web site as
37 specified in this section, as to any person described in
38 subdivisions (b), (c), or (d), the following information:

39 (i) The year of conviction of his or her most recent offense
40 requiring registration pursuant to Section 290.

1 (ii) The year he or she was released from incarceration for that
2 offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense,
10 and the required notation regarding any subsequent felony.

11 (B) (i) Any state facility that releases from incarceration a
12 person who was incarcerated because of a crime for which he or
13 she is required to register as a sex offender pursuant to Section
14 290 shall, within 30 days of release, provide ~~the year of~~
15 ~~conviction and~~ year of release for his or her most recent offense
16 requiring registration to the Department of Justice in a manner
17 and format approved by the department, ~~if that information is~~
18 ~~readily accessible to the facility.~~

19 (ii) Any state facility that releases a person who is required to
20 register pursuant to Section 290 from incarceration whose
21 incarceration was for a felony committed subsequently to the
22 offense for which he or she is required to register shall, within 30
23 days of release, advise the Department of Justice of that fact, ~~if~~
24 ~~that information is readily accessible to the facility.~~

25 (iii) Any state facility that, prior to January 1, 2007, released
26 from incarceration a person who was incarcerated because of a
27 crime for which he or she is required to register as a sex offender
28 pursuant to Section 290 shall provide ~~the year of conviction and~~
29 year of release for his or her most recent offense requiring
30 registration to the Department of Justice in a manner and format
31 approved by the department, ~~if that information is readily~~
32 ~~accessible to the facility.~~ The information provided by the
33 Department of Corrections and Rehabilitation shall be limited to
34 information that is currently maintained in an electronic format.
35 ~~If the information is not currently maintained in an electronic~~
36 ~~format, there shall be a notation that the event occurred prior to~~
37 ~~1978.~~

38 (iv) Any state facility that, prior to January 1, 2007, released a
39 person who is required to register pursuant to Section 290 from
40 incarceration whose incarceration was for a felony committed

1 subsequently to the offense for which he or she is required to
2 register shall advise the Department of Justice of that fact in a
3 manner and format approved by the department, ~~if that~~
4 ~~information is readily accessible to the facility.~~ The information
5 provided by the Department of Corrections and Rehabilitation
6 shall be limited to information that is currently maintained in an
7 electronic format. ~~If the information is not currently maintained~~
8 ~~in an electronic format, there shall be a notation that the event~~
9 ~~occurred prior to 1978.~~ *electronic format.*

10 (b) (1) On or before July 1, 2005, with respect to a person
11 who has been convicted of the commission or the attempted
12 commission of any of the offenses listed in, or who is described
13 in, paragraph (2), the Department of Justice shall make available
14 to the public via the Internet Web site his or her name and known
15 aliases, a photograph, a physical description, including gender
16 and race, date of birth, criminal history, the address at which the
17 person resides, and any other information that the Department of
18 Justice deems relevant, but not the information excluded pursuant
19 to subdivision (a).

20 (2) This subdivision shall apply to the following offenses and
21 offenders:

22 (A) Section 207 committed with intent to violate Section 261,
23 286, 288, 288a, or 289.

24 (B) Section 209 committed with intent to violate Section 261,
25 286, 288, 288a, or 289.

26 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

27 (D) Section 264.1.

28 (E) Section 269.

29 (F) Subdivision (c) or (d) of Section 286.

30 (G) Subdivision (a), (b), or (c) of Section 288, provided that
31 the offense is a felony.

32 (H) Subdivision (c) or (d) of Section 288a.

33 (I) Section 288.5.

34 (J) Subdivision (a) or (j) of Section 289.

35 (K) Any person who has ever been adjudicated a sexually
36 violent predator as defined in Section 6600 of the Welfare and
37 Institutions Code.

38 (c) (1) On or before July 1, 2005, with respect to a person
39 who has been convicted of the commission or the attempted
40 commission of any of the offenses listed in paragraph (2), the

1 Department of Justice shall make available to the public via the
2 Internet Web site his or her name and known aliases, a
3 photograph, a physical description, including gender and race,
4 date of birth, criminal history, the community of residence and
5 ZIP Code in which the person resides or the county in which the
6 person is registered as a transient, and any other information that
7 the Department of Justice deems relevant, but not the information
8 excluded pursuant to subdivision (a). On or before July 1, 2006,
9 the Department of Justice shall determine whether any person
10 convicted of an offense listed in paragraph (2) also has one or
11 more prior or subsequent convictions of an offense listed in
12 paragraph (2) of subdivision (a) of Section 290, and, for those
13 persons, the Department of Justice shall make available to the
14 public via the Internet Web site the address at which the person
15 resides. However, the address at which the person resides shall
16 not be disclosed until a determination is made that the person is,
17 by virtue of his or her additional prior or subsequent conviction
18 of an offense listed in paragraph (2) of subdivision (a) of Section
19 290, subject to this subdivision.

20 (2) This subdivision shall apply to the following offenses:

21 (A) Section 220, except assault to commit mayhem.

22 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

23 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
24 (i), of Section 286.

25 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
26 (i), of Section 288a.

27 (E) Subdivision (b), (d), (e), or (i) of Section 289.

28 (d) (1) On or before July 1, 2005, with respect to a person
29 who has been convicted of the commission or the attempted
30 commission of any of the offenses listed in, or who is described
31 in, this subdivision, the Department of Justice shall make
32 available to the public via the Internet Web site his or her name
33 and known aliases, a photograph, a physical description,
34 including gender and race, date of birth, criminal history, the
35 community of residence and ZIP Code in which the person
36 resides or the county in which the person is registered as a
37 transient, and any other information that the Department of
38 Justice deems relevant, but not the information excluded pursuant
39 to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 647.6.

(H) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, provided the offense is a misdemeanor.

1 (C) (i) An offense for which the offender successfully
2 completed probation, provided that the offender submits to the
3 department a certified copy of a probation report, presentencing
4 report, report prepared pursuant to Section 288.1, or other official
5 court document that clearly demonstrates both of the following:

6 (I) The offender was the victim's parent, stepparent, sibling, or
7 grandparent.

8 (II) The crime did not involve either oral copulation or
9 penetration of the vagina or rectum of either the victim or the
10 offender by the penis of the other or by any foreign object.

11 (ii) An offense for which the offender is on probation at the
12 time of his or her application, provided that the offender submits
13 to the department a certified copy of a probation report,
14 presentencing report, report prepared pursuant to Section 288.1,
15 or other official court document that clearly demonstrates both of
16 the following:

17 (I) The offender was the victim's parent, stepparent, sibling, or
18 grandparent.

19 (II) The crime did not involve either oral copulation or
20 penetration of the vagina or rectum of either the victim or the
21 offender by the penis of the other or by any foreign object.

22 (iii) If, subsequent to his or her application, the offender
23 commits a violation of probation resulting in his or her
24 incarceration in county jail or state prison, his or her exclusion,
25 or application for exclusion, from the Internet Web site shall be
26 terminated.

27 (iv) For the purposes of this subparagraph, "successfully
28 completed probation" means that during the period of probation
29 the offender neither received additional county jail or state prison
30 time for a violation of probation nor was convicted of another
31 offense resulting in a sentence to county jail or state prison.

32 (f) The Department of Justice shall make a reasonable effort to
33 provide notification to persons who have been convicted of the
34 commission or attempted commission of an offense specified in
35 subdivision (b), (c), or (d), that on or before July 1, 2005, the
36 department is required to make information about specified sex
37 offenders available to the public via an Internet Web site as
38 specified in this section. The Department of Justice shall also
39 make a reasonable effort to provide notice that some offenders
40 are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this

1 section shall be punished by a fine not exceeding one thousand
2 dollars (\$1,000), imprisonment in a county jail for a period not to
3 exceed six months, or by both that fine and imprisonment.

4 (I) (1) A person is authorized to use information disclosed
5 pursuant to this section only to protect a person at risk. This
6 authorization does not create a duty to use the information.

7 (2) Except as authorized under paragraph (1) or any other
8 provision of law, use of any information that is disclosed
9 pursuant to this section for purposes relating to any of the
10 following is prohibited:

11 (A) Health insurance.

12 (B) Insurance.

13 (C) Loans.

14 (D) Credit.

15 (E) Employment.

16 (F) Education, scholarships, or fellowships.

17 (G) Housing or accommodations.

18 (H) Benefits, privileges, or services provided by any business
19 establishment.

20 (3) This section shall not affect authorized access to, or use of,
21 information pursuant to, among other provisions, Sections 11105
22 and 11105.3, Section 8808 of the Family Code, Sections 777.5
23 and 14409.2 of the Financial Code, Sections 1522.01 and
24 1596.871 of the Health and Safety Code, and Section 432.7 of
25 the Labor Code.

26 (4) (A) Any use of information disclosed pursuant to this
27 section for purposes other than those provided by paragraph (1)
28 or in violation of paragraph (2) shall make the user liable for the
29 actual damages, and any amount that may be determined by a
30 jury or a court sitting without a jury, not exceeding three times
31 the amount of actual damage, and not less than two hundred fifty
32 dollars (\$250), and attorney's fees, exemplary damages, or a civil
33 penalty not exceeding twenty-five thousand dollars (\$25,000).

34 (B) Whenever there is reasonable cause to believe that any
35 person or group of persons is engaged in a pattern or practice of
36 misuse of the information available via an Internet Web site
37 established pursuant to this section in violation of paragraph (2),
38 the Attorney General, any district attorney, or city attorney, or
39 any person aggrieved by the misuse is authorized to bring a civil
40 action in the appropriate court requesting preventive relief,

1 including an application for a permanent or temporary injunction,
2 restraining order, or other order against the person or group of
3 persons responsible for the pattern or practice of misuse. The
4 foregoing remedies shall be independent of any other remedies or
5 procedures that may be available to an aggrieved party under
6 other provisions of law, including Part 2 (commencing with
7 Section 43) of Division 1 of the Civil Code.

8 (m) The public notification provisions of this section are
9 applicable to every person described in this section, without
10 regard to when his or her crimes were committed or his or her
11 duty to register pursuant to Section 290 arose, and to every
12 offense described in this section, regardless of when it was
13 committed.

14 (n) On or before July 1, 2006, and every year thereafter, the
15 Department of Justice shall make a report to the Legislature
16 concerning the operation of this section.

17 (o) A designated law enforcement entity and its employees
18 shall be immune from liability for good faith conduct under this
19 section.

20 ~~SEC. 1.2.~~

21 *SEC. 4.2.* Section 290.46 of the Penal Code is amended to
22 read:

23 290.46. (a) (1) On or before the dates specified in this
24 section, the Department of Justice shall make available
25 information concerning persons who are required to register
26 pursuant to Section 290 to the public via an Internet Web site as
27 specified in this section. The department shall update the Internet
28 Web site on an ongoing basis. All information identifying the
29 victim by name, birth date, address, or relationship to the
30 registrant shall be excluded from the Internet Web site. The name
31 or address of the person's employer and the listed person's
32 criminal history other than the specific crimes for which the
33 person is required to register shall not be included on the Internet
34 Web site. The Internet Web site shall be translated into languages
35 other than English as determined by the department.

36 (2) (A) On or before July 1, 2010, the Department of Justice
37 shall make available to the public, via an Internet Web site as
38 specified in this section, as to any person described in
39 subdivisions (b), (c), or (d), the following information:

1 (i) The year of conviction of his or her most recent offense
2 requiring registration pursuant to Section 290.

3 (ii) The year he or she was released from incarceration for that
4 offense.

5 (iii) Whether he or she was subsequently incarcerated for any
6 other felony, if that fact is reported to the department. If the
7 department has no information about a subsequent incarceration
8 for any felony, that fact shall be noted on the Internet Web site.

9 However, no year of conviction shall be made available to the
10 public unless the department also is able to make available the
11 corresponding year of release of incarceration for that offense,
12 and the required notation regarding any subsequent felony.

13 (B) (i) Any state facility that releases from incarceration a
14 person who was incarcerated because of a crime for which he or
15 she is required to register as a sex offender pursuant to Section
16 290 shall, within 30 days of release, provide the ~~year of~~
17 ~~conviction and~~ year of release for his or her most recent offense
18 requiring registration to the Department of Justice in a manner
19 and format approved by the department, ~~if that information is~~
20 ~~readily accessible to the facility.~~

21 (ii) Any state facility that releases a person who is required to
22 register pursuant to Section 290 from incarceration whose
23 incarceration was for a felony committed subsequently to the
24 offense for which he or she is required to register shall, within 30
25 days of release, advise the Department of Justice of that fact, ~~if~~
26 ~~that information is readily accessible to the facility.~~

27 (iii) Any state facility that, prior to January 1, 2007, released
28 from incarceration a person who was incarcerated because of a
29 crime for which he or she is required to register as a sex offender
30 pursuant to Section 290 shall provide the ~~year of conviction and~~
31 year of release for his or her most recent offense requiring
32 registration to the Department of Justice in a manner and format
33 approved by the department, ~~if that information is readily~~
34 ~~accessible to the facility.~~ The information provided by the
35 Department of Corrections and Rehabilitation shall be limited to
36 information that is currently maintained in an electronic format.
37 ~~If the information is not currently maintained in an electronic~~
38 ~~format, there shall be a notation that the event occurred prior to~~
39 ~~1978.~~

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department, ~~if that information is readily accessible to the facility.~~ The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format. ~~If the information is not currently maintained in an electronic format, there shall be a notation that the event occurred prior to 1978.~~ *electronic format.*

(3) The Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

1 (F) Subdivision (c) or (d) of Section 286.

2 (G) Subdivision (a), (b), or (c) of Section 288, provided that
3 the offense is a felony.

4 (H) Subdivision (c) or (d) of Section 288a.

5 (I) Section 288.3, provided that the offense is a felony.

6 (J) Section 288.5.

7 (K) Subdivision (a) or (j) of Section 289.

8 (L) Section 288.7.

9 (M) Any person who has ever been adjudicated a sexually
10 violent predator as defined in Section 6600 of the Welfare and
11 Institutions Code.

12 (c) (1) On or before July 1, 2005, with respect to a person
13 who has been convicted of the commission or the attempted
14 commission of any of the offenses listed in paragraph (2), the
15 Department of Justice shall make available to the public via the
16 Internet Web site his or her name and known aliases, a
17 photograph, a physical description, including gender and race,
18 date of birth, criminal history, the community of residence and
19 ZIP Code in which the person resides or the county in which the
20 person is registered as a transient, and any other information that
21 the Department of Justice deems relevant, but not the information
22 excluded pursuant to subdivision (a). On or before July 1, 2006,
23 the Department of Justice shall determine whether any person
24 convicted of an offense listed in paragraph (2) also has one or
25 more prior or subsequent convictions of an offense listed in
26 paragraph (2) of subdivision (a) of Section 290, and, for those
27 persons, the Department of Justice shall make available to the
28 public via the Internet Web site the address at which the person
29 resides. However, the address at which the person resides shall
30 not be disclosed until a determination is made that the person is,
31 by virtue of his or her additional prior or subsequent conviction
32 of an offense listed in paragraph (2) of subdivision (a) of Section
33 290, subject to this subdivision.

34 (2) This subdivision shall apply to the following offenses:

35 (A) Section 220, except assault to commit mayhem.

36 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

37 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
38 (i), of Section 286.

39 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
40 (i), of Section 288a.

1 (E) Subdivision (b), (d), (e), or (i) of Section 289.

2 (d) (1) On or before July 1, 2005, with respect to a person
3 who has been convicted of the commission or the attempted
4 commission of any of the offenses listed in, or who is described
5 in, this subdivision, the Department of Justice shall make
6 available to the public via the Internet Web site his or her name
7 and known aliases, a photograph, a physical description,
8 including gender and race, date of birth, criminal history, the
9 community of residence and ZIP Code in which the person
10 resides or the county in which the person is registered as a
11 transient, and any other information that the Department of
12 Justice deems relevant, but not the information excluded pursuant
13 to subdivision (a) or the address at which the person resides.

14 (2) This subdivision shall apply to the following offenses and
15 offenders:

16 (A) Subdivision (a) of Section 243.4, provided that the offense
17 is a felony.

18 (B) Section 266, provided that the offense is a felony.

19 (C) Section 266c, provided that the offense is a felony.

20 (D) Section 266j.

21 (E) Section 267.

22 (F) Subdivision (c) of Section 288, provided that the offense is
23 a misdemeanor.

24 (G) Section 288.3, provided that the offense is a misdemeanor.

25 (H) Section 626.81.

26 (I) Section 647.6.

27 (J) Section 653c.

28 (K) Any person required to register pursuant to Section 290
29 based upon an out-of-state conviction, unless that person is
30 excluded from the Internet Web site pursuant to subdivision (e).
31 However, if the Department of Justice has determined that the
32 out-of-state crime, if committed or attempted in this state, would
33 have been punishable in this state as a crime described in
34 subparagraph (A) of paragraph (2) of subdivision (a) of Section
35 290, the person shall be placed on the Internet Web site as
36 provided in subdivision (b) or (c), as applicable to the crime.

37 (e) (1) If a person has been convicted of the commission or
38 the attempted commission of any of the offenses listed in this
39 subdivision, and he or she has been convicted of no other offense
40 listed in subdivision (b), (c), or (d) other than those listed in this

1 subdivision, that person may file an application with the
2 Department of Justice, on a form approved by the department, for
3 exclusion from the Internet Web site. If the department
4 determines that the person meets the requirements of this
5 subdivision, the department shall grant the exclusion and no
6 information concerning the person shall be made available via
7 the Internet Web site described in this section. He or she bears
8 the burden of proving the facts that make him or her eligible for
9 exclusion from the Internet Web site. However, a person who has
10 filed for or been granted an exclusion from the Internet Web site
11 is not relieved of his or her duty to register as a sex offender
12 pursuant to Section 290 nor from any otherwise applicable
13 provision of law.

14 (2) This subdivision shall apply to the following offenses:

15 (A) A felony violation of subdivision (a) of Section 243.4.

16 (B) Section 647.6, if the offense is a misdemeanor.

17 (C) (i) An offense for which the offender successfully
18 completed probation, provided that the offender submits to the
19 department a certified copy of a probation report, presentencing
20 report, report prepared pursuant to Section 288.1, or other official
21 court document that clearly demonstrates that the offender was
22 the victim's parent, stepparent, sibling, or grandparent and that
23 the crime did not involve either oral copulation or penetration of
24 the vagina or rectum of either the victim or the offender by the
25 penis of the other or by any foreign object.

26 (ii) An offense for which the offender is on probation at the
27 time of his or her application, provided that the offender submits
28 to the department a certified copy of a probation report,
29 presentencing report, report prepared pursuant to Section 288.1,
30 or other official court document that clearly demonstrates that the
31 offender was the victim's parent, stepparent, sibling, or
32 grandparent

33 and that the crime did not involve either oral copulation or
34 penetration of the vagina or rectum of either the victim or the
35 offender by the penis of the other or by any foreign object.

36 (iii) If, subsequent to his or her application, the offender
37 commits a violation of probation resulting in his or her
38 incarceration in county jail or state prison, his or her exclusion,
39 or application for exclusion, from the Internet Web site shall be
40 terminated.

1 (iv) For the purposes of this subparagraph, “successfully
2 completed probation” means that during the period of probation
3 the offender neither received additional county jail or state prison
4 time for a violation of probation nor was convicted of another
5 offense resulting in a sentence to county jail or state prison.

6 (3) If the department determines that a person who was
7 granted an exclusion under a former version of this subdivision
8 would not qualify for an exclusion under the current version of
9 this subdivision, the department shall rescind the exclusion, make
10 a reasonable effort to provide notification to the person that the
11 exclusion has been rescinded, and, no sooner than 30 days after
12 notification is attempted, make information about the offender
13 available to the public on the Internet Web site as provided in
14 this section.

15 (4) Effective January 1, 2012, no person shall be excluded
16 pursuant to this subdivision unless the offender has submitted to
17 the department documentation sufficient for the department to
18 determine that he or she has a SARATSO risk level of low or
19 moderate-low.

20 (f) The Department of Justice shall make a reasonable effort to
21 provide notification to persons who have been convicted of the
22 commission or attempted commission of an offense specified in
23 subdivision (b), (c), or (d), that on or before July 1, 2005, the
24 department is required to make information about specified sex
25 offenders available to the public via an Internet Web site as
26 specified in this section. The Department of Justice shall also
27 make a reasonable effort to provide notice that some offenders
28 are eligible to apply for exclusion from the Internet Web site.

29 (g) (1) A designated law enforcement entity, as defined in
30 subdivision (f) of Section 290.45, may make available
31 information concerning persons who are required to register
32 pursuant to Section 290 to the public via an Internet Web site as
33 specified in paragraph (2).

34 (2) The law enforcement entity may make available by way of
35 an Internet Web site the information described in subdivision (c)
36 if it determines that the public disclosure of the information
37 about a specific offender by way of the entity’s Internet Web site
38 is necessary to ensure the public safety based upon information
39 available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(l) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

- 1 (C) Loans.
- 2 (D) Credit.
- 3 (E) Employment.
- 4 (F) Education, scholarships, or fellowships.
- 5 (G) Housing or accommodations.
- 6 (H) Benefits, privileges, or services provided by any business
- 7 establishment.

8 (3) This section shall not affect authorized access to, or use of,
9 information pursuant to, among other provisions, Sections 11105
10 and 11105.3, Section 8808 of the Family Code, Sections 777.5
11 and 14409.2 of the Financial Code, Sections 1522.01 and
12 1596.871 of the Health and Safety Code, and Section 432.7 of
13 the Labor Code.

14 (4) (A) Any use of information disclosed pursuant to this
15 section for purposes other than those provided by paragraph (1)
16 or in violation of paragraph (2) shall make the user liable for the
17 actual damages, and any amount that may be determined by a
18 jury or a court sitting without a jury, not exceeding three times
19 the amount of actual damage, and not less than two hundred fifty
20 dollars (\$250), and attorney's fees, exemplary damages, or a civil
21 penalty not exceeding twenty-five thousand dollars (\$25,000).

22 (B) Whenever there is reasonable cause to believe that any
23 person or group of persons is engaged in a pattern or practice of
24 misuse of the information available via an Internet Web site
25 established pursuant to this section in violation of paragraph (2),
26 the Attorney General, any district attorney, or city attorney, or
27 any person aggrieved by the misuse is authorized to bring a civil
28 action in the appropriate court requesting preventive relief,
29 including an application for a permanent or temporary injunction,
30 restraining order, or other order against the person or group of
31 persons responsible for the pattern or practice of misuse. The
32 foregoing remedies shall be independent of any other remedies or
33 procedures that may be available to an aggrieved party under
34 other provisions of law, including Part 2 (commencing with
35 Section 43) of Division 1 of the Civil Code.

36 (m) The public notification provisions of this section are
37 applicable to every person described in this section, without
38 regard to when his or her crimes were committed or his or her
39 duty to register pursuant to Section 290 arose, and to every

1 offense described in this section, regardless of when it was
2 committed.

3 (n) On or before July 1, 2006, and every year thereafter, the
4 Department of Justice shall make a report to the Legislature
5 concerning the operation of this section.

6 (o) A designated law enforcement entity and its employees
7 shall be immune from liability for good faith conduct under this
8 section.

9 (p) The Attorney General, in collaboration with local law
10 enforcement and others knowledgeable about sex offenders, shall
11 develop strategies to assist members of the public in
12 understanding and using publicly available information about
13 registered sex offenders to further public safety. These strategies
14 may include, but are not limited to, a hotline for community
15 inquiries, neighborhood and business guidelines for how to
16 respond to information posted on this Web site, and any other
17 resource that promotes public education about these offenders.

18 ~~SEC. 1.3.~~

19 *SEC. 4.3.* Section 290.46 of the Penal Code is amended to
20 read:

21 290.46. (a) (1) On or before the dates specified in this
22 section, the Department of Justice shall make available
23 information concerning persons who are required to register
24 pursuant to Section 290 to the public via an Internet Web site as
25 specified in this section. The department shall update the Internet
26 Web site on an ongoing basis. All information identifying the
27 victim by name, birth date, address, or relationship to the
28 registrant shall be excluded from the Internet Web site. The name
29 or address of the person's employer and the listed person's
30 criminal history other than the specific crimes for which the
31 person is required to register shall not be included on the Internet
32 Web site. The Internet Web site shall be translated into languages
33 other than English as determined by the department.

34 (2) (A) On or before July 1, 2010, the Department of Justice
35 shall make available to the public, via an Internet Web site as
36 specified in this section, as to any person described in
37 subdivisions (b), (c), or (d), the following information:

38 (i) The year of conviction of his or her most recent offense
39 requiring registration pursuant to Section 290.

1 (ii) The year he or she was released from incarceration for that
2 offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense,
10 and the required notation regarding any subsequent felony.

11 (B) (i) Any state facility that releases from incarceration a
12 person who was incarcerated because of a crime for which he or
13 she is required to register as a sex offender pursuant to Section
14 290 shall, within 30 days of release, provide the ~~year of~~
15 ~~conviction and~~ year of release for his or her most recent offense
16 requiring registration to the Department of Justice in a manner
17 and format approved by the department, ~~if that information is~~
18 ~~readily accessible to the facility.~~

19 (ii) Any state facility that releases a person who is required to
20 register pursuant to Section 290 from incarceration whose
21 incarceration was for a felony committed subsequently to the
22 offense for which he or she is required to register shall, within 30
23 days of release, advise the Department of Justice of that fact, ~~if~~
24 ~~that information is readily accessible to the facility.~~

25 (iii) Any state facility that, prior to January 1, 2007, released
26 from incarceration a person who was incarcerated because of a
27 crime for which he or she is required to register as a sex offender
28 pursuant to Section 290 shall provide the ~~year of conviction and~~
29 year of release for his or her most recent offense requiring
30 registration to the Department of Justice in a manner and format
31 approved by the department, ~~if that information is readily~~
32 ~~accessible to the facility.~~ The information provided by the
33 Department of Corrections and Rehabilitation shall be limited to
34 information that is currently maintained in an electronic format.
35 ~~If the information is not currently maintained in an electronic~~
36 ~~format, there shall be a notation that the event occurred prior to~~
37 ~~1978.~~

38 (iv) Any state facility that, prior to January 1, 2007, released a
39 person who is required to register pursuant to Section 290 from
40 incarceration whose incarceration was for a felony committed

1 subsequently to the offense for which he or she is required to
2 register shall advise the Department of Justice of that fact in a
3 manner and format approved by the department, ~~if that~~
4 ~~information is readily accessible to the facility.~~ The information
5 provided by the Department of Corrections and Rehabilitation
6 shall be limited to information that is currently maintained in an
7 electronic format. ~~If the information is not currently maintained~~
8 ~~in an electronic format, there shall be a notation that the event~~
9 ~~occurred prior to 1978.~~ *electronic format.*

10 (3) The Department of Mental Health shall provide to the
11 Department of Justice Sex Offender Tracking Program the names
12 of all persons committed to its custody pursuant to Article 4
13 (commencing with Section 6600) of Chapter 2 of Part 2 of
14 Division 6 of the Welfare and Institutions Code, within 30 days
15 of commitment, and shall provide the names of all of those
16 persons released from its custody within five working days of
17 release.

18 (b) (1) On or before July 1, 2005, with respect to a person
19 who has been convicted of the commission or the attempted
20 commission of any of the offenses listed in, or who is described
21 in, paragraph (2), the Department of Justice shall make available
22 to the public via the Internet Web site his or her name and known
23 aliases, a photograph, a physical description, including gender
24 and race, date of birth, criminal history, prior adjudication as a
25 sexually violent predator, the address at which the person resides,
26 and any other information that the Department of Justice deems
27 relevant, but not the information excluded pursuant to
28 subdivision (a).

29 (2) This subdivision shall apply to the following offenses and
30 offenders:

31 (A) Section 207 committed with intent to violate Section 261,
32 286, 288, 288a, or 289.

33 (B) Section 209 committed with intent to violate Section 261,
34 286, 288, 288a, or 289.

35 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

36 (D) Section 264.1.

37 (E) Section 269.

38 (F) Subdivision (c) or (d) of Section 286.

39 (G) Subdivision (a), (b), or (c) of Section 288, provided that
40 the offense is a felony.

1 (H) Subdivision (c) or (d) of Section 288a.

2 (I) Section 288.3, provided that the offense is a felony.

3 (J) Section 288.5.

4 (K) Subdivision (a) or (j) of Section 289.

5 (L) Section 288.7.

6 (M) Any person who has ever been adjudicated a sexually
7 violent predator as defined in Section 6600 of the Welfare and
8 Institutions Code.

9 (c) (1) On or before July 1, 2005, with respect to a person
10 who has been convicted of the commission or the attempted
11 commission of any of the offenses listed in paragraph (2), the
12 Department of Justice shall make available to the public via the
13 Internet Web site his or her name and known aliases, a
14 photograph, a physical description, including gender and race,
15 date of birth, criminal history, the community of residence and
16 ZIP Code in which the person resides or the county in which the
17 person is registered as a transient, and any other information that
18 the Department of Justice deems relevant, but not the information
19 excluded pursuant to subdivision (a). On or before July 1, 2006,
20 the Department of Justice shall determine whether any person
21 convicted of an offense listed in paragraph (2) also has one or
22 more prior or subsequent convictions of an offense listed in
23 paragraph (2) of subdivision (a) of Section 290, and, for those
24 persons, the Department of Justice shall make available to the
25 public via the Internet Web site the address at which the person
26 resides. However, the address at which the person resides shall
27 not be disclosed until a determination is made that the person is,
28 by virtue of his or her additional prior or subsequent conviction
29 of an offense listed in paragraph (2) of subdivision (a) of Section
30 290, subject to this subdivision.

31 (2) This subdivision shall apply to the following offenses:

32 (A) Section 220, except assault to commit mayhem.

33 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

34 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
35 (i), of Section 286.

36 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
37 (i), of Section 288a.

38 (E) Subdivision (b), (d), (e), or (i) of Section 289.

39 (d) (1) On or before July 1, 2005, with respect to a person
40 who has been convicted of the commission or the attempted

1 commission of any of the offenses listed in, or who is described
2 in, this subdivision, the Department of Justice shall make
3 available to the public via the Internet Web site his or her name
4 and known aliases, a photograph, a physical description,
5 including gender and race, date of birth, criminal history, the
6 community of residence and ZIP Code in which the person
7 resides or the county in which the person is registered as a
8 transient, and any other information that the Department of
9 Justice deems relevant, but not the information excluded pursuant
10 to subdivision (a) or the address at which the person resides.

11 (2) This subdivision shall apply to the following offenses and
12 offenders:

13 (A) Subdivision (a) of Section 243.4, provided that the offense
14 is a felony.

15 (B) Section 266, provided that the offense is a felony.

16 (C) Section 266c, provided that the offense is a felony.

17 (D) Section 266j.

18 (E) Section 267.

19 (F) Subdivision (c) of Section 288, provided that the offense is
20 a misdemeanor.

21 (G) Section 288.3, provided that the offense is a misdemeanor.

22 (H) Section 626.81.

23 (I) Section 647.6.

24 (J) Section 653c.

25 (K) Any person required to register pursuant to Section 290
26 based upon an out-of-state conviction, unless that person is
27 excluded from the Internet Web site pursuant to subdivision (e).
28 However, if the Department of Justice has determined that the
29 out-of-state crime, if committed or attempted in this state, would
30 have been punishable in this state as a crime described in
31 subparagraph (A) of paragraph (2) of subdivision (a) of Section
32 290, the person shall be placed on the Internet Web site as
33 provided in subdivision (b) or (c), as applicable to the crime.

34 (e) (1) If a person has been convicted of the commission or
35 the attempted commission of any of the offenses listed in this
36 subdivision, and he or she has been convicted of no other offense
37 listed in subdivision (b), (c), or (d) other than those listed in this
38 subdivision, that person may file an application with the
39 Department of Justice, on a form approved by the department, for
40 exclusion from the Internet Web site. If the department

1 determines that the person meets the requirements of this
2 subdivision, the department shall grant the exclusion and no
3 information concerning the person shall be made available via
4 the Internet Web site described in this section. He or she bears
5 the burden of proving the facts that make him or her eligible for
6 exclusion from the Internet Web site. However, a person who has
7 filed for or been granted an exclusion from the Internet Web site
8 is not relieved of his or her duty to register as a sex offender
9 pursuant to Section 290 nor from any otherwise applicable
10 provision of law.

11 (2) This subdivision shall apply to the following offenses:

12 (A) A felony violation of subdivision (a) of Section 243.4.

13 (B) Section 647.6, if the offense is a misdemeanor.

14 (C) (i) An offense for which the offender successfully
15 completed probation, provided that the offender submits to the
16 department a certified copy of a probation report, presentencing
17 report, report prepared pursuant to Section 288.1, or other official
18 court document that clearly demonstrates that the

19 offender was the victim's parent, stepparent, sibling, or
20 grandparent

21 and that the crime did not involve either oral copulation or
22 penetration of the vagina or rectum of either the victim or the
23 offender by the penis of the other or by any foreign object.

24 (ii) An offense for which the offender is on probation at the
25 time of his or her application, provided that the offender submits
26 to the department a certified copy of a probation report,
27 presentencing report, report prepared pursuant to Section 288.1,
28 or other official court document that clearly demonstrates that the
29 offender was the victim's parent, stepparent, sibling, or
30 grandparent and that the crime did not involve either oral
31 copulation or penetration of the vagina or rectum of either the
32 victim or the offender by the penis of the other or by any foreign
33 object.

34 (iii) If, subsequent to his or her application, the offender
35 commits a violation of probation resulting in his or her
36 incarceration in county jail or state prison, his or her exclusion,
37 or application for exclusion, from the Internet Web site shall be
38 terminated.

39 (iv) For the purposes of this subparagraph, "successfully
40 completed probation" means that during the period of probation

1 the offender neither received additional county jail or state prison
2 time for a violation of probation nor was convicted of another
3 offense resulting in a sentence to county jail or state prison.

4 (3) If the department determines that a person who was
5 granted an exclusion under a former version of this subdivision
6 would not qualify for an exclusion under the current version of
7 this subdivision, the department shall rescind the exclusion, make
8 a reasonable effort to provide notification to the person that the
9 exclusion has been rescinded, and, no sooner than 30 days after
10 notification is attempted, make information about the offender
11 available to the public on the Internet Web site as provided in
12 this section.

13 (4) Effective January 1, 2012, no person shall be excluded
14 pursuant to this subdivision unless the offender has submitted to
15 the department documentation sufficient for the department to
16 determine that he or she has a SARATSO risk level of low or
17 moderate-low.

18 (f) The Department of Justice shall make a reasonable effort to
19 provide notification to persons who have been convicted of the
20 commission or attempted commission of an offense specified in
21 subdivision (b), (c), or (d), that on or before July 1, 2005, the
22 department is required to make information about specified sex
23 offenders available to the public via an Internet Web site as
24 specified in this section. The Department of Justice shall also
25 make a reasonable effort to provide notice that some offenders
26 are eligible to apply for exclusion from the Internet Web site.

27 (g) (1) A designated law enforcement entity, as defined in
28 subdivision (f) of Section 290.45, may make available
29 information concerning persons who are required to register
30 pursuant to Section 290 to the public via an Internet Web site as
31 specified in paragraph (2).

32 (2) The law enforcement entity may make available by way of
33 an Internet Web site the information described in subdivision (c)
34 if it determines that the public disclosure of the information
35 about a specific offender by way of the entity's Internet Web site
36 is necessary to ensure the public safety based upon information
37 available to the entity concerning that specific offender.

38 (3) The information that may be provided pursuant to this
39 subdivision may include the information specified in subdivision
40 (b) of Section 290.45. However, that offender's address may not

1 be disclosed unless he or she is a person whose address is on the
2 Department of Justice's Internet Web site pursuant to subdivision
3 (b) or (c).

4 (h) For purposes of this section, "offense" includes the
5 statutory predecessors of that offense, or any offense committed
6 in another jurisdiction that, if committed or attempted to be
7 committed in this state, would have been punishable in this state
8 as an offense listed in subparagraph (A) of paragraph (2) of
9 subdivision (a) of Section 290.

10 (i) Notwithstanding Section 6254.5 of the Government Code,
11 disclosure of information pursuant to this section is not a waiver
12 of exemptions under Chapter 3.5 (commencing with Section
13 6250) of Title 1 of Division 7 of the Government Code and does
14 not affect other statutory restrictions on disclosure in other
15 situations.

16 (j) (1) Any person who uses information disclosed pursuant to
17 this section to commit a misdemeanor shall be subject to, in
18 addition to any other penalty or fine imposed, a fine of not less
19 than ten thousand dollars (\$10,000) and not more than fifty
20 thousand dollars (\$50,000).

21 (2) Any person who uses information disclosed pursuant to
22 this section to commit a felony shall be punished, in addition and
23 consecutive to any other punishment, by a five-year term of
24 imprisonment in the state prison.

25 (k) Any person who is required to register pursuant to Section
26 290 who enters an Internet Web site established pursuant to this
27 section shall be punished by a fine not exceeding one thousand
28 dollars (\$1,000), imprisonment in a county jail for a period not to
29 exceed six months, or by both that fine and imprisonment.

30 (l) (1) A person is authorized to use information disclosed
31 pursuant to this section only to protect a person at risk. This
32 authorization does not create a duty to use the information.

33 (2) Except as authorized under paragraph (1) or any other
34 provision of law, use of any information that is disclosed
35 pursuant to this section for purposes relating to any of the
36 following is prohibited:

37 (A) Health insurance.

38 (B) Insurance.

39 (C) Loans.

40 (D) Credit.

1 (E) Employment.

2 (F) Education, scholarships, or fellowships.

3 (G) Housing or accommodations.

4 (H) Benefits, privileges, or services provided by any business
5 establishment.

6 (3) This section shall not affect authorized access to, or use of,
7 information pursuant to, among other provisions, Sections 11105
8 and 11105.3, Section 8808 of the Family Code, Sections 777.5
9 and 14409.2 of the Financial Code, Sections 1522.01 and
10 1596.871 of the Health and Safety Code, and Section 432.7 of
11 the Labor Code.

12 (4) (A) Any use of information disclosed pursuant to this
13 section for purposes other than those provided by paragraph (1)
14 or in violation of paragraph (2) shall make the user liable for the
15 actual damages, and any amount that may be determined by a
16 jury or a court sitting without a jury, not exceeding three times
17 the amount of actual damage, and not less than two hundred fifty
18 dollars (\$250), and attorney's fees, exemplary damages, or a civil
19 penalty not exceeding twenty-five thousand dollars (\$25,000).

20 (B) Whenever there is reasonable cause to believe that any
21 person or group of persons is engaged in a pattern or practice of
22 misuse of the information available via an Internet Web site
23 established pursuant to this section in violation of paragraph (2),
24 the Attorney General, any district attorney, or city attorney, or
25 any person aggrieved by the misuse is authorized to bring a civil
26 action in the appropriate court requesting preventive relief,
27 including an application for a permanent or temporary injunction,
28 restraining order, or other order against the person or group of
29 persons responsible for the pattern or practice of misuse. The
30 foregoing remedies shall be independent of any other remedies or
31 procedures that may be available to an aggrieved party under
32 other provisions of law, including Part 2 (commencing with
33 Section 43) of Division 1 of the Civil Code.

34 (m) The public notification provisions of this section are
35 applicable to every person described in this section, without
36 regard to when his or her crimes were committed or his or her
37 duty to register pursuant to Section 290 arose, and to every
38 offense described in this section, regardless of when it was
39 committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Web site, and any other resource that promotes public education about these offenders.

SEC. 5. Section 1202.8 of the Penal Code, as amended by Senate Bill No. 1178, is amended to read:

1202.8. (a) Persons placed on probation by a court shall be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

~~(b) Commencing July 1, 2008, every adult male who is convicted of an offense that requires him to register as a sex offender pursuant to Section 290 shall be assessed for the risk of reoffending consistent with Section 290.06. The assessment shall be performed by a probation officer who has been trained pursuant to Section 290.05. Every adult male who has a risk assessment~~ *January 1, 2009, every person who has been assessed with the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) pursuant to Sections 290.04 to 290.06, inclusive, and who has a SARATSO risk level of high shall be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology. Nothing in this section prohibits probation authorities from using electronic monitoring technology pursuant to any other provision of law.*

(c) Within 30 days of a court making an order to provide restitution to a victim or to the Restitution Fund, the probation

1 officer shall establish an account into which any restitution
2 payments that are not deposited into the Restitution Fund shall be
3 deposited.

4 (d) Beginning January 1, 2009, *and every two years thereafter,*
5 each probation department shall report ~~every two years to the~~
6 ~~Legislature and to the Governor~~ *to the Corrections Standard*
7 *Authority all relevant statistics and relevant information*
8 *regarding* on the effectiveness of continuous electronic
9 monitoring of offenders pursuant to subdivision (b). The report
10 shall include the costs of monitoring and the recidivism rates of
11 those persons who have been monitored. *The Corrections*
12 *Standard Authority shall compile the reports and submit a single*
13 *report to the Legislature and the Governor every two years*
14 *through 2017.*

15 *SEC. 6. Section 3004 of the Penal Code, as amended by*
16 *Senate Bill No. 1178, is amended to read:*

17 3004. (a) Notwithstanding any other law, the parole authority
18 may require, as a condition of release on parole or reinstatement
19 on parole, or as an intermediate sanction in lieu of return to
20 prison, that an inmate or parolee agree in writing to the use of
21 electronic monitoring or supervising devices for the purpose of
22 helping to verify his or her compliance with all other conditions
23 of parole. The devices shall not be used to eavesdrop or record
24 any conversation, except a conversation between the parolee and
25 the agent supervising the parolee which is to be used solely for
26 the purposes of voice identification.

27 ~~(b) Notwithstanding subdivision (a), commencing July 1,~~
28 ~~2008, every adult male who is convicted of an offense that~~
29 ~~requires him to register as a sex offender pursuant to Section 290~~
30 ~~shall be assessed for the risk of reoffending consistent with~~
31 ~~Section 290.06. The assessment shall be performed by a parole~~
32 ~~officer who has been trained pursuant to Section 290.05. Every~~
33 ~~adult male who has a risk assessment~~ *Commencing January 1,*
34 *2009, every person who has been assessed with the State*
35 *Authorized Risk Assessment Tool for Sex Offenders (SARATSO)*
36 *pursuant to Sections 290.04 to 290.06, inclusive, and who has a*
37 *SARATSO risk level of high shall be continuously electronically*
38 *monitored while on parole, unless the department determines that*
39 *such monitoring is unnecessary for a particular person. The*
40 *monitoring device used for these purposes shall be identified as*

1 one that employs the latest available proven effective monitoring
2 technology. Nothing in this section prohibits parole authorities
3 from using electronic monitoring technology pursuant to any
4 other provision of law.

5 (c) Beginning January 1, 2009, and every two years thereafter
6 *through 2017*, the Department of Corrections and Rehabilitation
7 shall report to the Legislature and to the Governor ~~on all relevant~~
8 *statistics and relevant information regarding* the effectiveness of
9 continuous electronic monitoring of offenders pursuant to
10 subdivision (b). The report shall include the costs of monitoring
11 and the recidivism rates of those persons who have been
12 monitored.

13 ~~SEC. 2.~~

14 ~~SEC. 7.~~ (a) ~~Section 4.1~~ of this bill incorporates
15 amendments to Section 290.46 of the Penal Code proposed by
16 both this bill and AB 2712. It shall only become operative if (1)
17 both bills are enacted and become effective on or before January
18 1, 2007, but this bill becomes operative first, (2) each bill amends
19 Section 290.46 of the Penal Code, and (3) SB 1128 is not enacted
20 or as enacted does not amend that section, and (4) this bill is
21 enacted after AB 2712, in which case Section 290.46 of the Penal
22 Code, as amended by ~~Section 4~~ of this bill, shall remain
23 operative only until the operative date of AB 2712, at which time
24 ~~Section 4.1~~ of this bill shall become operative and Sections
25 ~~4.2 and 4.3~~ 4.2 and 4.3 of this bill shall not become operative.

26 (b) ~~Section 4.2~~ 4.2 of this bill incorporates amendments to
27 Section 290.46 of the Penal Code proposed by both this bill and
28 SB 1128. It shall only become operative if (1) both bills are
29 enacted and become effective on or before January 1, 2007, (2)
30 each bill amends Section 290.46 of the Penal Code, (3) AB 2712
31 is not enacted or as enacted does not amend that section, and (4)
32 this bill is enacted after SB 1128 in which case Section 290.46 of
33 the Penal Code as amended by SB 1128, shall remain operative
34 only until the operative date of this bill, at which time ~~Section 4.2~~
35 4.2 of this bill shall become operative, and ~~Sections 4, 4.1, and~~
36 ~~4.3~~ 4, 4.1, and 4.3 of this bill shall not become operative.

37 (c) ~~Section 4.3~~ 4.3 of this bill incorporates amendments to
38 Section 290.46 of the Penal Code proposed by this bill, AB 2712,
39 and SB 1128. It shall only become operative if (1) all three bills
40 are enacted and become effective on or before January 1, 2007,

(2) all three bills amend Section 290.46 of the Penal Code, and
(3) this bill is enacted after AB 2712 and SB 1128, in which case
Section 290.46 of the Penal Code as amended by SB 1128, shall
remain operative only until the operative date of this bill, at
which time Section ~~1.2~~ 4.2 of this bill shall become operative and
shall remain operative only until the operative date of AB 2712,
at which time Section ~~1.3~~ 4.3 of this bill shall become operative,
and Sections ~~1 and 1.1~~ 4 and 4.1 of this bill shall not become
operative.

~~SEC. 3.~~

SEC. 8. If the Commission on State Mandates determines
that this act contains costs mandated by the state, reimbursement
to local agencies and school districts for those costs shall be
made pursuant to Part 7 (commencing with Section 17500) of
Division 4 of Title 2 of the Government Code.

~~SEC. 4.~~

SEC. 9. This bill shall only become operative if Senate Bill
1128 of the 2005–06 Regular Session is also enacted and
becomes effective on or before January 1, 2007.

SEC. 10. *Sections 1, 2, 3, 5, and 6 of this act shall become
operative only if Senate Bill No. 1178 is also enacted and this act
is enacted after Senate Bill 1178.*

~~SEC. 5.~~

SEC. 11. This act is an urgency statute necessary for the
immediate preservation of the public peace, health, or safety
within the meaning of Article IV of the Constitution and shall go
into immediate effect. The facts constituting the necessity are:

In order to ensure the public safety of California families and
their children and to ensure that the Megan’s Law database
provides adequate information about registered sex offenders
living in California, it is necessary that this act take effect
immediately.